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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/753,768

01/02/2001

Scott D. Redmond

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EXAMINER

SHELEHEDA, JAMES R

ART UNIT

PAPER NUMBER

2623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 09/753,768</p>	<p>Applicant(s) REDMOND, SCOTT D.</p>	
	<p>Examiner JAMES SHELEHEDA</p>	<p>Art Unit 2623</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): The 112, first paragraph rejection, of claim 26.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 20-45.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2623

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments on page 7, regarding the rejection of claim 20, has been considered but is not persuasive. The various portions of the specification cited by applicant (without any indication of their location and context within the specification) fail to support the recited claim limitations. While the device may connect to a video service through a subscribed wireless information service and additionally may form a "mini local area network", there is no support for receiving video/audio over the "mini local area network."

On page 9, applicant argues that the use of a "secondary channel for data exchange" there must be a primary channel.

In response, it is noted that the rejection is not directed to the existence of any sort of "primary channel". The specification discloses utilizing a secondary channel for the wireless communications session (page 5, lines 1-13). Thus, the secondary channel is utilized to request and receive the desired video (page 5, lines 1-21). Thus, there is no support for data on the sideband to "accompany" the video/audio, as the video/audio is received via the sideband. There is no disclosure of utilizing the "primary" channel whatsoever, and further, no disclosure of receiving any video or audio via that channel.

Applicant's arguments on pages 10-11, have been considered but is not persuasive. The various portions of the specification cited by applicant (without any indication of their location and context within the specification) fail to support the recited claim limitations. While the device may connect to a video service through a subscribed wireless information service and additionally may form a "mini local area network", there is no support for receiving video/audio over the "mini local area network." It is noted that while the specification describes wherein a billboard "could operate as a cellular telephone array or similar wireless carrier" this is specifically disclosed as an alternative to connecting to the billboard for communicating in a local network (page 10, lines 1-11). In this context, the billboard is not acting as a "proxy" as applicant suggests, but would simply comprise the tower (13) shown in Fig. 1.

In regards to applicant's arguments on page 12, it is noted that applicant's citation of the specification has been taken out of context and provides no support for exchanging audio/video content via a serial cable. The indicated portion of the specification explicitly indicates that docking pins allow information to be retrieved from RAM, 63. There is absolutely no disclosure of the USB serial cable being used to exchange video/audio data.

Further, it is noted that the claim language recites "exchanging audio/video content" which would require a two-way transaction or "trade". The specification provides no support for a two-way transmission of video via the docking port.

In regards to applicant's arguments on page 12, it is noted that the indicated portion of the specification explicitly indicates that docking pins allow "information" to be retrieved and modified from RAM, 63. There is no specific disclosure of retrieving video data from RAM, as the RAM also includes program code and data values (page 8, lines 1-4).

Further, it is noted that the claim language recites "exchanging audio/video content" which would require a two-way transaction or "trade". The specification provides no support for a two-way transmission of video via the docking port.

Applicant's arguments on pages 12-13, have been considered but is not persuasive. The various portions of the specification cited by applicant (without any indication of their location and context within the specification) fail to support the recited claim limitations. While the device may receive a video service through a communications session, none of the indicated portions disclose wherein the device will transmit the recorded video.

On pages 13-14, regarding Tran and Whiteside, applicant argues that the billboard will continuously broadcast, and thus would not include or require a proximity sensor.

In response, it is noted that in Whiteside, it is the cellular telephone, and NOT the billboard, which was relied upon. Thus, when within range of the billboard, the cell phone detects the signals transmitted from the billboard and then initiates communications.